



MINUTES OF THE LAND RECLAMATION COMMISSION MEETING

November 16, 2005

Vice-Chairman, Hugh Jenkins called the meeting to order at 10:00 a.m., at the Missouri Department of Natural Resources, 1738 East Elm Street, Jefferson City, Missouri.

Commissioners Present: Hugh Jenkins; Dr. Gregory Haddock; Nick Matherly; Mimi Garstang and Ed Galbraith

Staff Present: Larry Coen; Tom Cabanas; Bill Zeaman; Steve Femmer; Andy Reed; Clint Bishop; Mike Mueller; Sara Hayes; Larry Hopkins; Mike Larsen; Gene Noe and Becky Myers

Others Present: Stephen Preston, OSM; Perry Pursell, OSM; Steve Rudloff, MLPA; Mike Carlson, Gredell Engineering; Charlene Fitch, SWMP; J.P. Boessen, SWMP; Chris Nickelson, Lyndon Property; Jon Beck, Lyndon Property; Jim Dozier, Georgia-Pacific; John Davis, Georgia-Pacific; Leon Dickens, Georgia-Pacific; Terry Fox, Triad Environmental Services; James D. Rolls, AECI; David Keller, Harbison-Walker Refractories; Junior Wood; Rose Weber; Margaret Helderle; Edgar Remspecher.

MINUTES OF THE SEPTEMBER 22, 2005 MEETING

Dr. Haddock made a motion to approve the minutes of the September 22, 2005, Land Reclamation Program's Commission meeting. Mr. Galbraith seconded the motion; motion carried unanimously.

AGENDA ITEM UPDATE

North American Resources reclamation agreement update was presented by Mr. Larry Coen, Land Reclamation Program's Staff Director. Frontier Insurance was the bonding company for three mine sites operated by North American Resources. The Program entered into an agreement with Frontier Insurance regarding the reclamation of these sites. They completed the reclamation on two of the sites, but the company itself went into receivership, so the New York Insurance Department contracted attorney Bill Gorton to offer a final settlement of \$100,000.00 to the Commission. During a July 2005 conference call with Commission members this settlement was discussed and it was agreed with a unanimous vote to accept the final settlement of \$100,000.00.

The New York Insurance Department has offered a written final settlement to the Commission as final payment for the North American Resources reclamation. In closed session earlier in the morning the Commission unanimously approved the offer and will allow Mr. Larry Coen and Mr. Harry Bozoian to accept this settlement document on behalf of the Commission.

PERMITS, CONTRACTS AND DESIGN - CLINT BISHOP

AML Reclamation Projects

Land Reclamation Staff, Mr. Clint Bishop, made the Abandoned Mine Land presentations. No coal abandoned mine land (AML) reclamation projects are currently under design or construction. The Land Reclamation Program (LRP) staff has visited and evaluated Missouri's higher priority AML Inventory sites for future reclamation work. Landowners of prospective project sites are now being contacted to determine their interest in having their properties reclaimed. After written consent to conduct reclamation work has been obtained from the landowners, the Land Reclamation Program will finalize the project ranking and selection list. The Land Reclamation Program will issue a contract this fall to obtain aerial photography and mapping for these sites and will begin conducting preliminary field investigations. The goal is to complete designs for new projects this winter and early spring in order to have reclamation work underway during the 2006-construction season.

AML Emergency Program

One possible coal emergency complaint was received and investigated since the last commission meeting. A homeowner in Marceline has been experiencing a water problem in her basement and she was concerned that past underground mining was the cause. The LRP staff investigated this complaint on October 18, 2005. Although an underground coal mine is located in the immediate area, there is no evidence that the mine workings are causing the problem. The most likely cause is groundwater leaking through the basement floor and concrete block basement walls during and after periods of heavy rainfall.

AML Maintenance Activities

Perche Creek AML Reclamation Project (Location: Boone County)

The emergency spillway, a rock-lined channel, was slightly damaged during the spring of 2005. The spillway overtopped prematurely after the primary discharge pipe clogged shut with debris during a heavy rainfall event. In late October, LRP issued a contract to C.L. Richardson Construction of Ashland in the amount of \$1,700 to re-shape the eroded spillway and replace the lost rock. This work should be completed in early November 2005.

INDUSTRIAL MINERALS

Hearing request - Georgia Pacific Gypsum, Inc. - Bill Zeaman

Prior to his presentation, Mr. Zeaman of the Land Reclamation Program distributed test results of the material used at the Georgia Pacific Gypsum, Inc. manufacturing plant in Cuba, Missouri. At that time, he noted that in the audience there was staff from the Department's Solid Waste Management Program that could interpret the results of the test if anyone had questions.

During the last Commission meeting in September, the Commission made a decision to table the request for a hearing concerning the permit application submitted by Georgia Pacific Gypsum, Inc. The decision to table the request for a hearing was based on landowner, Margaret Helderle submitting an analysis of some material removed from a site that has an exemption from the Missouri Department of Natural Resources' Solid Waste Management Program. Department staff sent a reminder letter dated October 13, 2005 to Margaret Helderle and copied Georgia Pacific Gypsum, Inc. explaining the agreements discussed during the last meeting. On October 17, 2005, the Department's Solid Waste Management Program received a copy of the bill from Ozark Testing explaining the types of performed tests.

On October 25, 2005, representatives from Georgia Pacific Gypsum, Inc., Land Reclamation Program representative, Mike Mueller, along with landowners Margaret Helderle, Edgar Remspecher, Rose Weber and other concerned citizens met at the Georgia Pacific manufacturing plant to collect samples from the fire core door and fire block production waste streams. The material was packaged and shipped to Engineering Surveys and Services in Columbia, Missouri for testing. Ms. Helderle then passed out copies of those test results to the Commission members. Based on the analysis of material sampled from the waste stream, the Department's Solid Waste Management Program determined there was no change in their decision to grant the exemption.

The Notice of Recommendation made by the Staff Director on September 7, 2005 has not changed. On September 7, 2005, the Staff Director recommended approval of the pending mining permit application, because the company satisfied all the requirements of The Land Reclamation Act.

Program staff mailed a copy of the November 16th agenda of the Land Reclamation Commission meeting to people who either submitted comments, requested a public meeting or a formal hearing.

Because this issue was tabled during the last meeting, the staff asked that the Land Reclamation Commission make a decision on the request for a hearing concerning the permit application submitted by Georgia Pacific Gypsum, Inc.

Present in the audience were representatives from Georgia Pacific Gypsum, Inc., as well as concerned landowners and staff from the Department's Solid Waste Management Program. Mike Mueller, from the Department's Land Reclamation Program was in the audience as he was the inspector that was present at the site when the samples were prepared for testing.

John Boessen and Charlene Fitch staff from the Department's Solid Waste Management Program was present to interpret the results of the sample testing and to answer questions from the Commission and audience. Mr. Boessen and Ms. Fitch reviewed the data that was submitted and concurred with the Department's original August 29th approval letter that there appeared to be no significant concerns in the fill material.

After this discussion, the Commission members asked specific questions regarding definitions of the test results. At that time, the test results were explained in great detail. The test sampling was done on both the test melt glue and the gypsum fill, which is the proposed fill for the pit. Company representative, Scott Abolt, explained that there is approximately 11,000 pounds of fill dumped in the pit yearly and of that amount approximately 150 pounds is test melt glue material. Although the test melt glue material is a small amount of the dumped material, the company wanted all material that was dumped in the pit to be tested.

The Departments' Solid Waste Management Staff explained that the "RBCA" (Risk Based Corrective Action) standards were consulted to evaluate the test results. These standards were developed in the Department of Natural Resources Hazardous Waste Program and are used to determine acceptable levels of contamination at former industrial sites based on various exposure pathways such as ingestion, inhalation and dermal contact. Although the "RBCA" standards are a new set of standards, the CALM (Clean-up Levels for Missouri) standards were also consulted. The Program has used the CALM standards for approximately five years. The program compared the test results to the lowest of these standards.

Mr. Jenkins asked concerned landowner, Margaret Helderle, to take the podium and address the Commission. Ms. Helderle stated that landowner Rose Weber would be speaking for the group of adjacent landowners. Ms. Helderle noted that she possibly would have further comments after Ms. Weber spoke.

Rose Weber then took the podium, but prior to addressing the Commission she passed out copies of various documents and pictures of the pit for their review. Ms. Weber also noted that she is trying to obtain the geologist's report of the pit, but to no avail. She also submitted a letter that she received from the EPA stating that they would like to conduct their own investigation.

Ms. Weber explained in great detail the information that she previously passed out to the Commission and other interested parties. She, as well as other concerned landowners that were also present in the audience have much concern regarding their health and the effect the fill in the clay pit will have on not only their health, but the health of their families.

Ms. Weber was very upset that the previous owner, River Cement could transfer the permit to Georgia Pacific Gypsum, Inc. and not be held responsible to uphold their

permit, but allow Georgia Pacific Gypsum, Inc. to dump "waste" into the pit. There was much discussion over the definition of landfill, wasteland and reclamation. Once again, Ms. Weber was emphatic in the presentation of her concerns over the permit being issued to Georgia Pacific Gypsum, Inc.

One of her main concerns was the difference in the definition of a "landfill" and the definition of "wasteland". She states, "it is not a wasteland yet, but since Georgia Pacific is dumping 'waste' into it, it is soon to be one". Ms. Weber went on to explain that the site is listed as a landfill which she defined and not to be a wasteland, which she feels it is fast becoming. In conclusion, she emphasized once again that she did not believe that River Cement should be allowed to "transfer" the permit to Georgia Pacific Gypsum, Inc.

Mr. Jenkins stated that the issue at hand was whether the Commission should hold a hearing or not. At that time, Mr. Jenkins asked if there were any adjacent landowners that would like to address the Commission. Ms. Margaret Helderle approached the podium.

Ms. Helderle feels that as an adjacent landowner she has the right to know what material is being dumped into the landfill. She wanted to know if there is material being dumped that could be harmful to the health of the landowners or their families. She felt since the EPA thought there was enough evidence to conduct their own tests, perhaps, there is valuable information that can/will be collected. Therefore, she felt that before the Commission could make a decision regarding the hearing more information needed to be collected. She asked the Commission to table both the request for the hearing and the request for the permit until the results from the EPA testing are submitted.

The Commission asked questions of the audience and participated in active discussion of the answers. Ms. Weber once again asked to address the Commission regarding the testing of the two waste streams. There was discussion between Ms. Weber and the Commission regarding the description of "waste streams". Mr. Jenkins had some questions, while the Department staff and Commission member Ed Galbraith defined waste streams. Although Ms. Weber listened as Mr. Galbraith explained to her what waste streams were, she still had questions and was not completely satisfied with the answers given.

Once again, Mr. Galbraith explained to Ms. Weber and the audience that the Department of Natural Resources' Solid Waste Program did in fact test the material in the waste stream that was previously agreed upon. Mr. Scott Abolt, of Georgia Pacific Gypsum, Inc. then asked to address these issues. He explained that he worked closely with the Solid Waste Program to insure that the dumping was safe and the test results indicate that it is safe.

Mr. Jenkins asked where the company presently dumps the waste material. Mr. Abolt stated that the clay pit was filled and dumping stopped in that location on September

21, 2005. Since September 21, the material has been dumped in the local sanitary landfill at a cost of approximately \$120.00 per day depending on the amount of truckloads dumped (usually 3 loads per day).

At that point, Commission member, Nick Matherly then questioned the tested material based on the discussion at the September Commission meeting. Mr. Abolt explained what his company was obligated to test and what he volunteered to test at that meeting. After a lengthy discussion, Mr. Matherly was still unsure of what was to be tested based on his understanding at the September meeting.

Ms. Weber once again offered comments and suggestions. The gist of her discussion was that Mr. Abolt should take a core sample from the bottom of the pit for testing. Mr. Jenkins asked Department staff from the Solid Waste Management Program how they felt the EPA test results would effect the decision to deny or grant a hearing and issue a permit to Georgia Pacific Gypsum, Inc. Their consensus was that the material was not toxic and the Department's beneficial use approval would stand. Commission member and Department staff, Ed Galbraith, then asked Ms. Weber if she felt the EPA would find toxic material in their test results. Ms. Weber commented, "it really isn't about finding toxic material, it is the fact that the permit is going to be transferred."

After further discussion, Mr. Galbraith noted that the Commission was into "serious factfinding" when it actually needed to rule on whether to deny or grant a hearing. Mr. Jenkins interjected that he felt there was some misunderstanding of the verbiage used at the last meeting. Mr. Galbraith felt that the possibility of the EPA finding some violation should not impact the decision that needed to be made regarding the request for a hearing. Mr. Galbraith made a motion to deny the hearing and issue the permit to Georgia Pacific Gypsum, Inc.; Ms. Garstang seconded the motion. Motion carried unanimously.

Ms. Weber approached the Commission and was very upset with their decision to deny the hearing and issue the permit to Georgia Pacific Gypsum, Inc. She asked Mr. Jenkins questions regarding his comments of not understanding the verbiage used at the September meeting and stated that she would go to the media with the information obtained from the meeting.

TOM CABANAS - INTRODUCTION OF NEW EMPLOYEE

Mr. Cabanas, Department staff introduced Ms. Sarah Hayes. Sarah was hired as the new Industrial Minerals Inspector and started working with the Department on October 16, 2005. Ms. Hayes' expertise is in soil erosion. Prior to joining the Department, she was employed in South Carolina.

MIKE LARSEN - COAL BOND FORFEITURE STATUS UPDATE

Since the last update provided to the commission on September 22, 2005, the bond forfeiture staff has continued to conduct on the ground inspections and evaluations of bond forfeiture sites. The focus of these inspections was to determine the conditions present and to decide what remaining work was necessary in order prepare them for presentation to the commission for release of any further liability on the part of the state.

In addition, the staff has been working with contractors in order to complete needed repairs and maintenance at various forfeiture sites around the state. The following is a brief summary for the commission's information as to the work progressing and/or completed since the September meeting:

Riedel Energy, Inc. – Monroe and Ralls counties:

Awarded contract for rock placement (erosion control) and pond repairs on permit #1989-03 and permit #1987-02. Work is pending at the time of this memo due to ground conditions.

Site visit with landowner, Mr. Bruce Stuart, to identify his areas of concern on property owned within permit #1990-03. These concerns will be addressed when work begins in general at the mine site.

North American Resources Silver Creek Mine – Randolph county

Field inspections were conducted in September and October in order to prepare the site for commission consideration of liability release. Minor work identified as needed included a small area of a surface water diversion requiring seeding, fertilization, and mulching. Work completed and vegetation is in place.

Universal Coal and Energy Co., Inc. - Mine #51 – Randolph county

Minor earthwork completed in order to repair erosional areas. Seeding and mulching of repaired areas completed. Vegetation in place. Some minor rock placement completed on specific areas of erosion. Pond #003 repaired with placement of new principal spillway pipe.

Universal Coal and Energy Co., Inc. - Mine #7 – Howard county

Work completed with respect to the reseeding of a limited area that contained thin vegetation. This work involved liming, importation of topsoil, fertilization and seeding and mulching of repaired area. Some minor rock placement for erosion control and overall liming of pastureland has been completed within the remaining portion of this minesite.

Universal Coal and Energy Co., Inc. – Mine #4 – Howard county

This minesite has received the greatest amount of attention over the past two months. Extensive work has been completed with respect to erosion control at this mine. Earthwork and rock placement have been ongoing during the months of September

and October in order to prepare the northern portion of this mine for liability release consideration by the commission during January, 2006. In addition, a new spillway pipe has been placed in a pond and liming of pasturelands has been completed.

Universal Coal and Energy Co., Inc. – Howard county processing plant – Howard county

Meeting with landowner occurred following the September commission meeting to determine landowner needs. All work is minor in nature and will be attended to over the coming weeks in order to finalize and present this site for the commission's consideration of liability release at the January, 2006 meeting.

Midwest Coal – Tiger Mine – Bates county

Bond release inspection conducted in October as a result of the submission of a Phase I and Complete bond/liability release application from Lyndon Property Insurance Company, surety for the now defunct Midwest Coal, LLC. This release presentation will be made later on at today's meeting under a separate agenda item.

Burbridge Coal Co. – Monroe county

Met with landowner of the remaining parcel at this mine site. The landowner has two significant gullies, which are in need of repair and also a pond discharge tube which requires repair. This work will exceed the limit of an under \$25, 000.00 contract so will need to go through the formal bidding process which will take several months. The plans are being drawn up and the contract for repairs is expected to be awarded in the spring of 2006.

Missouri Mining, Inc. – Mines #17 and #14 North and South

Site inspections conducted to determine the status of the above three mine sites and to evaluate these sites for presentation to the commission for a liability release. All work appears to be complete and presentation will be made at a future meeting of the commission to request release.

MIKE LARSEN - COAL BOND LIABILITY RELEASES

The Office of Surface Mining submitted the following sites for bond liability release:

- **Associated Electric Coop., Inc.; Prairie Hill Mine**, Permit 1990-02, PP-05-07 is for a Phase II release on 319 acres with a total bond liability release of \$0.00
- **Continental Coal, Inc.; Mary Jane Mine #1**, Permit 1986-13T, PP-05-08 is for a Phase II and III release on 152.8 acres with a bond liability of \$67,400.00
- **Associated Electric Coop., Inc.; NEMO Mine**, Permit 1982-01, PP-05-09 is for a Phase II release on 6.5 acres with a bond liability of \$0.00 and a Phase III liability release on 42.50 acres with a bond liability of \$21,250.00

Dr. Haddock made a motion to approve the release of liability for the above sites; Ms. Mimi Garstang seconded the motion. Motion carried unanimously.

- **Midwest Coal; Tiger Mine, Permit 1997-02, #SU-05-06**

As noted earlier in the meeting by Mr. Larsen, he had further discussion on Midwest Coal, LLC; Tiger Mine and Lyndon Property Insurance Company; Permit 1997-02; Surety Bond and Liability Release Application #SU-05-006.

On July 24, 2003, the Land Reclamation Commission signed a Consent Order entered into between Midwest Coal, LLC, Lyndon Property Insurance Company (surety for Midwest Coal), the Missouri Attorney General's Office, and the Land Reclamation Program. The Consent Order set forth the provisions by which Show Cause Order #2466, issued to Midwest Coal, LLC for a pattern of violations, would be resolved.

The Consent Order stipulated that the commission would revoke Midwest Coal's permit #1997-02 but would not forfeit the bond, #24-0399-1997-02 in the amount of \$1,015,000.00, issued by Lyndon Property Insurance Company. The agreement was made that the surety would undertake the reclamation of the Tiger mine and comply with all provisions of the Consent Order.

Lyndon Property Insurance Company through its' consultant, Triad Environmental Services, developed a revised reclamation plan that was approved by the Land Reclamation Program on July 19, 2004 and continued through the summer of 2005. The surety then submitted a bond release application to the Land Reclamation Program on August 22, 2005 which requests a Phase I bond and liability release for 371.5 acres along with a Complete (unaffected) release for 10.5 acres. The application was reviewed and processed during the month of September 2005 and field inspected on October 6, 2005.

It is the staff's determination that the surety has completed reclamation required of it in accordance with the approved reclamation plan and signed Consent Order in order to be granted both a Phase I release on all areas affected under Permit #1997-02 and a Complete release for areas unaffected by the mining operation.

Therefore, it is the staff's recommendation that the commission grant a release to Lyndon Property Insurance Company of any further Phase I reclamation liability on Permit #1997-02 as well as a full release on the areas deemed to be unaffected by mining. This will reduce the bond amount from the initial \$1,015,000.00 to \$197,975.00 which will remain available to secure the reclamation of this mine through the Phase II and Phase III levels.

Dr. Haddock made a motion to release liability for Permit #1997-02 SU 0506; Mr. Matherly seconded the motion. Motion carried unanimously.

MIKE LARSEN - COAL BOND FORFEITURE LIABILITY RELEASE REQUESTS

The Land Reclamation Program's bond forfeiture staff have evaluated and completed work on the following former coal mine sites during the past two months and are presenting them to the Commission for their liability release consideration.

All sites have been inspected jointly with the Office of Surface Mining and, in addition, all current landowners of record have been notified via certified mail that these sites are to be recommended for complete and final liability release at this meeting of the Land Reclamation Commission. As of the date of this memo, no comments or objections have been received.

<u>Company</u>	<u>Mine</u>	<u>Permit #</u>	<u>Release Acres</u>
North American Resources (Frontier Insurance Co.)	Silver Creek Mine	1993-01	200
Universal Coal & Energy Co., Inc.	Mine #51	78-41 (Interim Law) 79-37-A4 (Interim Law)	235
Universal Coal & Energy Co., Inc.	Mine #7	1981-10 Inc. #3	20
Universal Coal & Energy Co., Inc.	Mine #4	80-69	37

STAFF RECOMMENDATION:

It is the recommendation of the program's bond forfeiture staff that, as all necessary reclamation has been accomplished, the Missouri Land Reclamation Commission release the state from all further liability for the former coal mine sites listed above.

Dr. Haddock made a motion to release the bond forfeiture liability on North American Resources - Silver Creek Mine, Universal Coal and Energy Co., Inc, Mine #51, Mine #7, Mine #4 (partial release as previously discussed); Mr. Matherly seconded the motion. Motion carried unanimously.

- UC&E Howard County Preparation Plant - Update

Prior to the next agenda item, Dr. Haddock made a motion to take the Howard County item off of the table for further discussion; Mr. Galbraith seconded the motion. Motion carried unanimously.

Mr. Larsen then proceeded with the update on the Howard County Preparation Plant that was tabled at the September Commission meeting. At the September meeting the

staff presented a request for liability release for the above coal processing area. Following the staff's presentation, Mr. Alan Leonard, the landowner of this area made a presentation in which he stated his dissatisfaction with some areas of his property. He requested that the release be denied until certain repairs were made on his property.

Following his presentation and subsequent discussion, the Commission tabled the request for liability release until such time as the staff could meet with Mr. Leonard in an effort to review his concerns on-site and work to remedy any problems that exist. This was done the following week on September 29th. In addition to the LRP staff, a member of the Office of Surface Mining (OSM) was also present.

The problems identified by the landowner at that time are, although relatively minor in nature, in need of repair and remediation. An agreement has been reached with the landowner to perform the necessary work in order to alleviate his concerns however, because of other scheduled work at other locations, this specific work is still pending. It is anticipated that over the next four to six weeks the work will be performed that should satisfy the landowner of this particular site.

The staff is recommended that the Land Reclamation Commission continue to table this agenda item until the January, 2006 meeting at which time the staff feels that all necessary work will have been accomplished.

Mr. Galbraith made a motion to once again table the Howard County issue until the January 2006 meeting or such time when the staff feels the work has been completed; Dr. Haddock seconded the motion. Motion carried unanimously.

OTHER BUSINESS

Update for Proposed Amendments to Coal Bonding Regulations and Approval to File Emergency Amendments - Mike Larsen

It was noted at the September meeting that the Land Reclamation program has been working on the preparation of a proposed rulemaking package for coal bonding regulations. The rulemaking will change the way that bonds are provided to the commission in order to underwrite surface coal mining permits. The expected filing date for the proposed rule amendments with the Secretary of State and the Joint Committee on Administrative Rules will be December 1, 2005. Once the signatures have been obtained on this rulemaking package it will then be formally filed. There will then be a sixty-day public comment period with a formal hearing before the Commission held in conjunction with the January 2006 meeting. After the hearing, any comments received will be addressed in an Order of Rulemaking to be prepared by staff and presented to the Commission next spring. Final effective date of the rulemaking will occur no earlier than the summer of 2006.

The Office of Surface Mining has advised that in order to reacquire primacy for the administration of the coal program, the Land Reclamation Program must first have in

place rules that require the changes to the bonding program that the proposed rulemaking is addressing. Since this will not occur through the normal rulemaking process until next summer at the earliest; it is with the Commission's approval that the staff will use the option of emergency rules that allow for the almost immediate emplacement of rules when there exists a "compelling governmental interest" as a reason for a temporary bypassing of the normal rulemaking process. The reacquisition of the coal program is seen as a "compelling governmental interest" and this has been verified as such through the Division of Environmental Quality's legal counsel.

With the approval of the Land Reclamation Commission, staff will work to implement an emergency rulemaking for filing during the month of December 2005 so that they will become effective on January 1, 2006. This is the current target date for the program to reacquire primacy for the administration of the coal program from the Office of Surface Mining. The emergency rules will only be in effect for a maximum of 180 days. While they are in effect, the normal rulemaking will proceed at the same time so that when the emergency rules expire, the normal rulemaking will be in place to take over.

It is the recommendation of program staff that the Commission formally approve the filing of emergency rules governing the bonding of surface coal mining permits among other aspects of coal bonding and direct staff to proceed with this effort as soon as is practical.

At this time, audience member Terry Fox addressed Mr. Larsen with questions regarding the proposal, particularly the bond pool and money that has previously been paid into it. Mr. Larsen and Mr. Coen addressed those questions to the satisfaction of Mr. Fox.

Ms. Garstang then moved to approve the recommendations of staff to file emergency rules as needed; Mr. Galbraith seconded the motion. Motion carried unanimously.

Update for Proposed New Rule regarding Hearings and Approval to File New Proposed Rule - Larry Coen

Earlier this year, the Land Reclamation Commission authorized the program to file administrative rules related to hearings. The Commissioner's core Workgroup met over several months with the final language of the rules being several pages long and written by a consortium of attorneys working to develop a standardized approach to hearings before the Missouri Department of Natural Resources and its Boards and Commissions.

House Bill 824 was passed during the 2005 legislative session and contains specific language related to hearings. The language was changed and several deletions were noted. Acting on the advice of the attorneys that wrote the original hearings rule, a new rule was prepared which is now much shorter than the original.

Mr. Coen passed out a copy of the new version of the hearings rule which is now contained on one page. Since HB 824 requires all hearings to go through the Administrative Hearing Commission, and since that Commission already has standard procedural rules, our final rule can be very brief.

He then asked the Commission to sign a "Finding of Necessity" to go forward with the revised administrative hearings rule.

Mr. Galbraith made a motion to approve to file the new proposed hearings rule; Dr. Haddock seconded the motion. Motion carried unanimously.

**Protocol for Expedited In-Stream Sand and Gravel Violation Referrals -
Larry Coen**

The program asked the Commission authority to go directly to the Attorney General's office in cases where actual stream damage has occurred by an unpermitted operator and will continue to occur if the operation is not halted immediately.

Upon notification to the company, this protocol will allow the company/owner to take the matter directly to the Attorney General's office and settle the issue, in which case that would end it. If the company/owner chooses not to settle with the state, the Attorney General's office will continue to process the violation.

Mr. Coen asked if there were questions from the audience or the Commission. Mr. Jenkins had questions regarding the language of the protocol and Ms. Garstang then suggested that some of the language be changed before the Commission signed the document.

Mr. Galbraith made a motion to accept the protocol with the language changes as recommended by Ms. Garstang; Dr. Haddock seconded the motion. Motion carried unanimously.

Dr. Haddock made a motion to add "commercial operator" to the protocol language; Ms. Garstang seconded the motion. Motion carried unanimously.

A revised copy of the document with the language changes as voted upon was presented to the Commission and it was signed.

COMMENTS FROM THE PUBLIC

Mr. Jenkins asked for comments from the public. No comments from the public.

CLOSED SESSION

Mr. Galbraith made a motion for the Land Reclamation Commission to meet in closed session at 8:30 a.m. on January 26, 2006, to discuss personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo. Dr. Haddock seconded the motion. Motion carried unanimously.

ADJOURNMENT

Dr. Haddock made a motion to adjourn the meeting; Mr. Galbraith seconded the motion. Motion carried unanimously. The meeting adjourned at 12:10 p.m.

Respectfully submitted,

Chairman